

EXHIBIT F

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

RUSSELL DOVER, HENRY
HORSEY, CODY RANK, and
SUZETTE PERRY, on behalf of
themselves and all others similarly
situated,

Plaintiffs

-vs.-

BRITISH AIRWAYS, PLC (UK),

Defendant.

Case No. 1:12-cv-05567 (RJD) (MDG)

Judge: Raymond J. Dearie

Magistrate Judge: Marilyn D. Go

CORRECTED REPLY REPORT OF ROBERT KOKONIS

July 27, 2015

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I. INTRODUCTION

1. My name is Robert Kokonis. On May 4, 2015, I submitted an expert report in this proceeding. I have been asked by counsel to respond to certain claims made in the Rebuttal Report of Daniel M. Kasper wherein he criticizes a number of my conclusions. If I do not address one of Mr. Kasper's claims, it does not mean that I agree with Mr. Kasper on that point.

2. In my May 4 report, I concluded that:

(a) While British Airways termed the YQ Charges in this case "fuel surcharges," these charges were primarily used for revenue maximization, not cost recovery.

(i) The YQ Charges could exceed the actual cost of fuel on certain routes. A charge used primarily as a cost recovery mechanism would not exceed the actual cost of fuel.

(ii) BA changed and discussed its YQ Charges for reasons that did not relate to the cost of fuel. A charge used primarily as a cost recovery mechanism generally would not be changed for reasons unrelated to the cost of fuel.

(iii) Some YQ Charges were non-refundable. Combined with the other factors listed in my report, this also indicates that the YQ Charges were not used primarily as a cost recovery mechanism because a consumer who does not

fly uses no fuel. Also, if a cancelled seat booking was then sold to another passenger, BA could have collected two YQ Charges for the same seat.

(iv) YQ Charges could vary based on the point of sale. A charge that was primarily designed as a cost recovery mechanism ordinarily would be the same regardless of the place one purchased his or her plane ticket.

(v) British Airways executives discussed YQ Charges very inconsistently with each other—different executives gave different explanations for the purpose and mechanism of the YQ Charges. If such a significant charge were primarily designed as a cost recovery mechanism, there would not be confusion about what that mechanism was or what it was designed to do.

(vi) If YQ Charges were a cost recovery mechanism, YQ Charges would be closely related to fuel prices. But the economist Dr. Jonathan Arnold has demonstrated that no such relationship exists.

(b) I also respond to a number of questions from Dr. Jonathan Arnold. I explain, among other things, that it would have been commercially reasonable for BA to have designed automated, transparent YQ Charges. I also explain that if an airline faced the choice of imposing only YQ Charges based on fluctuations in the cost of fuel or imposing no YQ Charges at all, it might well be in the airline's commercial self-interest to impose no YQ Charges at all and use its base fares to respond to fluctuations in the cost of fuel.

3. I have carefully considered the information contained in Mr. Kasper's report. It does not cause me to alter any of the above conclusions.

II. SUMMARY OF CONCLUSIONS BASED ON MR. KASPER'S REPORT

4. Mr. Kasper misconstrues my report when he describes "revenue maximization" and "cost recovery."¹ As I made clear in my initial report, airlines generally set their ticket prices in order to maximize revenue, and they generally should. But airlines also sometimes try to recover specific costs. For example, some countries may charge a navigation service fee (known as an "ANS" fee), and in some jurisdictions airlines will sometimes pass this fee directly on to customers in an effort to recover the direct cost of that fee. Similarly, some airlines may levy an insurance fee in order to recover some portion of their total insurance costs. The key point I was asked about in this case was whether British Airways' YQ Charge was such a charge—a charge that reflected an attempt to recover certain costs—or whether it was simply part of BA's broad revenue maximization scheme. As demonstrated in my initial report, it was the latter. On this point, Mr. Kasper appears to agree with me.

5. The total price of a revenue ticket will generally be set with a focus on revenue maximization, but individual components of this price may be

¹ Kasper Rep. ¶¶ 40-58.

appropriately labeled as direct cost recovery. I agree with Mr. Kasper that this distinction is not likely to be important to revenue customers. Mr. Kasper does not seem to recognize, however, that the distinction may well be quite important to redemption customers if their contract permits an airline to assess some types of costs but not others.²

6. Mr. Kasper says that I “impose a definition” of the term “fuel surcharge.”³ That is wrong—I do not even suggest a definition of this phrase because I am neither an economist nor a lawyer. I simply examined the YQ Charge from a number of different perspectives to determine if it was designed to recover specific costs. As I concluded (and as Mr. Kasper appears to concede), it was not.

7. Mr. Kasper discusses the fact that it is theoretically possible for people to book tickets for travel 355 days in advance.⁴ That is true, but the vast majority of people (particularly in North America) book travel no more than a few months in advance, as Dr. Arnold explained in his opening report.⁵ From an airline’s perspective—whether isolating specific types of costs or simply looking at overall revenue maximization—what matters is not hypothetical, theoretical

² I have no opinion about the meaning of the contract at issue in this case.

³ Kasper Rep. at 4.

⁴ Kasper Rep. ¶ 71.

⁵ Arnold Rep. ¶ 51.

customer behavior, but actual customer behavior. Based on my experience in the industry, I know that BA would most likely have had a good understanding of its expected forward booking curve: referencing the fact that a ticket can theoretically be purchased 355 days in advance is highly misleading at best.

8. Mr. Kasper states that there was consistent testimony concerning the YQ Charge amongst British Airways' executives. This is misleading. The fact that he was able to find examples of BA executives saying the same thing as each other does not undermine the fact that frequently they were *not* saying the same thing, and Mr. Kasper never meaningfully engages those inconsistent statements.

9. Mr. Kasper states that I was wrong to conclude that the YQ Charge was not ““legitimate.””⁶ But I reached no conclusion about the legitimacy of the YQ Charge. Instead, what I explain is that it is not designed the way a specific cost recovery charge would be designed, but is instead designed within the broad context of attempting to maximize British Airways' general revenues. For example, it may well have been a sharp business practice to make the fuel surcharge non-refundable, but this does not mean that a non-refundable charge can be said to be designed to recover specific costs.

⁶ Kasper Rep. at 5. Mr. Kasper puts quotes around the word “legitimate” in an apparent attempt to ascribe its use to me. That word does not appear in my report.

10. Mr. Kasper's statement that BA reviews its fuel surcharges on a "periodic basis" is highly misleading because it implies that these reviews occurred at regular intervals. They did not.⁷

11. Mr. Kasper says that, under the contract at issue in this case, it would be reasonable to impose a fuel surcharge in reference to a baseline year. I defer to others on this point as it requires interpretation of the contractual term "fuel surcharge." But even if Mr. Kasper were right, that was *not* what BA did with its YQ Charge.

12. Mr. Kasper states that it would be "impractical" to change a fuel surcharge quarterly.⁸ He is just wrong. Airlines like British Airways change their fares many thousands of times every day, and there were certain times during the class period when BA *did* change its YQ Charge twice in a three month period.⁹ Mr. Kasper's claim that BA could not have changed the YQ Charge quarterly cannot be accurate. His real argument seems to be that a quarterly fuel surcharge

⁷ See Jo Boswell Dep. at 65:24-66:6; Feb. 13, 2015 Ian Howick Dep. at 29:22-30:9; Mark Pickard Dep. at 41:9-42:20.

⁸ Kasper Rep. at 5; *see also id.* ¶¶ 133-134.

⁹ There were several periods in which BA changed its global YQ Charge grid several times in less than a three-month period. For example: 02May2007 (see: BA00093370) followed by 13Jun2007 (see: BA00093372) for a 43 day interval; 25Feb2008 (BA00075647) followed by 02May2008 (BA00103555) for a 68 day interval; and 08Feb2011 (BA00079510) followed by 08Apr2011 (BA00136608) for a 60 day interval.

would “not offer any commercial benefit to BA” relative to what BA actually did.¹⁰

Perhaps not. But it would have been based on BA’s cost of fuel.

13. Mr. Kasper says that BA could not have used an algorithm to determine the precise future cost of fuel. I agree. This also has nothing to do with any of my conclusions. What I explained in my initial report was that BA could have automated the process of determining the YQ charge, based on a variety of available information at the time, as opposed to using an ad hoc committee that met sporadically. Mr. Kasper never disagrees with my actual opinion on this matter.

14. Mr. Kasper states that the shocks impacting the airline sector since 2001 were “unprecedented.”¹¹ While he quotes two BA documents that use this term, he offers no evidence or analysis demonstrating that it is an appropriate one. As explained in my initial report, it is not.¹² Mr. Kasper does not engage my analysis on this point.

15. Mr. Kasper states that, since 2001, a series of shocks has “depressed passenger demand.”¹³ If he means to opine that demand is somehow lower since 2001 than it was prior to that time, he is wrong, as is demonstrated by data from

¹⁰ Kasper Rep. ¶ 133.

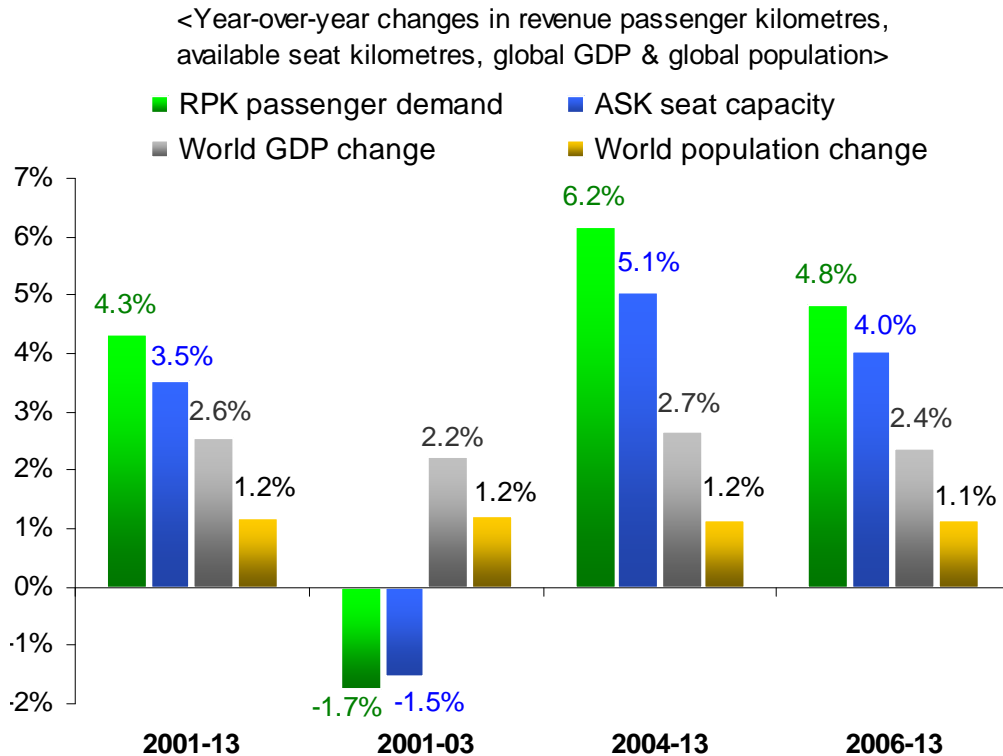
¹¹ Kasper Rep. ¶ 7.

¹² Kokonis Rep. ¶ 9.

¹³ Kasper Rep. ¶ 7.

the International Air Transport Association (IATA), to which British Airways belongs, along with data from the World Bank and the United States Census Bureau. In reality, global airline traffic demand grew by an average of 4.3 percent between from 2001 through 2013. During the proposed class period, moreover, demand grew by 4.8%.

Average Annual Growth in the Passenger Capacity and Demand of IATA Airline Members¹⁴



¹⁴ Sources: IATA documents from several years including “IATA Financial Forecasts”, “IATA Economic Forecasts”, “IATA Industry Fact Sheets”, and “IATA Monthly Traffic Analysis” (see www.iata.org); <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/1W?display=graph>; http://www.census.gov/population/international/data/worldpop/table_population.php.

A related and important takeaway from the chart is that the overall sector was able to rein in capacity (supply) and that passenger demand outpaced growth rates in global gross domestic product (GDP) and global population. Passenger demand maintains a positive spread versus capacity, GDP and population in all periods, except for 2001-2003. In other words, not only did demand grow, it outpaced available seat capacity and growth in both global GDP and global population. The positive spread between passenger demand and seat capacity led to rising load factors, which can be a key driver of improved profits.

16. Mr. Kasper makes the statement that “average airfares have declined substantially.”¹⁵ This statement is not meaningful and somewhat misleading. It is true that *base fares* are lower today than they were in the past, but this does not imply that total ticket prices are lower. Mr. Kasper implicitly concedes this elsewhere when he argues that BA’s YQ Charges are a component of its total ticket price.¹⁶

17. Mr. Kasper says that Open Skies and Gulf States have “heightened competition and led to downward pressure on prices.”¹⁷ This is an incomplete and misleading statement. While Open Skies and Gulf States have increased competition, other factors have reduced it, including joint business agreements

¹⁵ Kasper Rep. ¶ 12; *see also id.* ¶ 19.

¹⁶ Kasper Rep. at 3; *see also id.* ¶¶ 47, 102.

¹⁷ Kasper Rep. ¶ 7.

between British Airways and several of its oneworld alliance partners, other airline alliances, and various antitrust pricing immunity allowances throughout the world.¹⁸

18. Mr. Kasper opines that “many airlines” introduced fuel surcharges.¹⁹

I note that Mr. Kasper does not examine the contracts between “many airlines” and their customers, the structure of the fuel surcharges of “many airlines,” the relationship between “many airlines” fuel surcharges and BA’s YQ Charges, or anything else connected to the issues in my report. He simply states that “many airlines” imposed a charge of unknown size and duration that they referred to as a “fuel surcharge.”²⁰

¹⁸ Of course, as I note in my initial report, the airline industry *is* highly competitive. (Kokonis Rep. at 15, n. 21; *see also* ¶ 32(b); and Appendix D-Discussions Focused on YQ Charges as a Competitive Tool).

¹⁹ Kasper Rep. ¶¶ 33-39.

²⁰ In support of his observations about “many airlines,” he relies on two pieces of literature, one authored by Richard Klophaus. While I do not opine on the meaning of the term “fuel surcharge,” I note that Mr. Klophaus appears to propose a definition in the paper cited by Mr. Kasper. Mr. Klophaus explains that “[i]f the primary purpose of surcharges is to mitigate unexpected movements in fuel prices, a reasonable baseline price for the next period would simply be the average price paid in the previous period.” Richard Klophaus, “Airline Fuel Surcharges: Theory and Practice” p. 6.

III. MR. KASPER'S OPINIONS ARE MISLEADING AND GENERALLY DO NOT HELP EXPLAIN THE ISSUES IN THIS LITIGATION

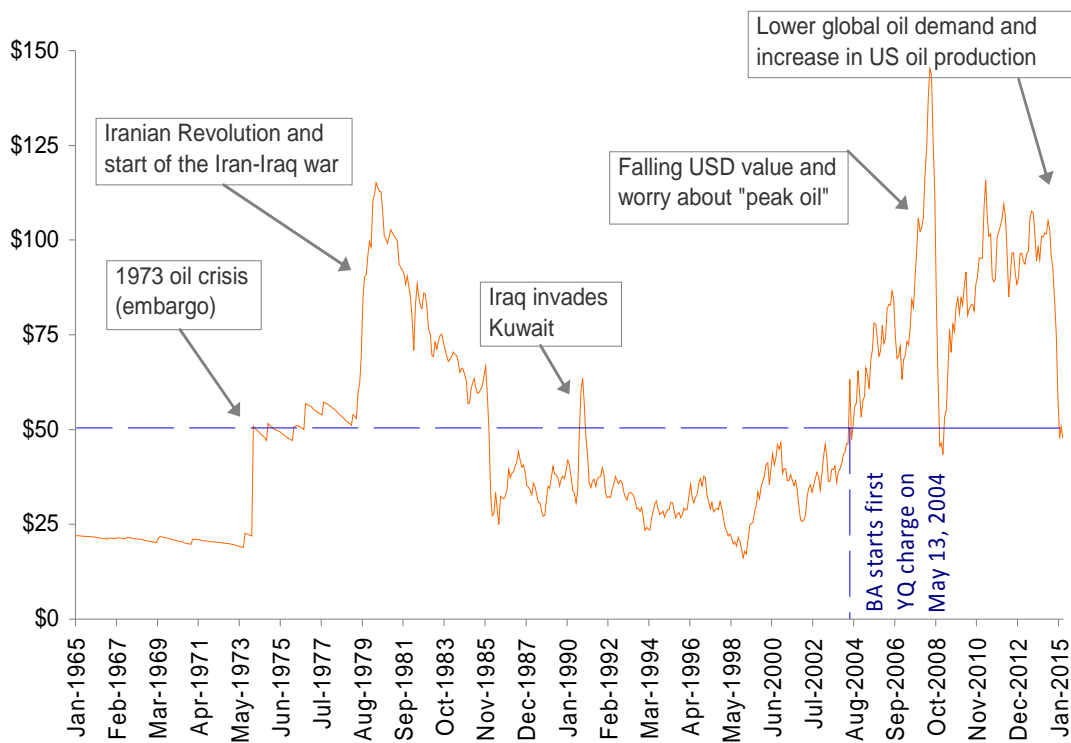
A. Mr. Kasper's Description Of The Airline Industry And Historical Fuel Prices Is Not Correct.

19. Mr. Kasper begins his report by making a number of background statements about airline industry and fuel prices. Many of these statements are incorrect or misleading.

1. Post-2003 Fuel Prices Were Not Unprecedented.

20. Below, I reproduced the chart of fuel prices from my initial report.²¹

Real Price of West Texas Intermediate Oil, January 1965-March 2015



²¹ Kokonis Rep. at 9.

21. This chart demonstrates that Mr. Kasper is wrong to say that shocks impacting the airline sector since 2001 were “unprecedented.”²² They were not. Among other things, his statement that fuel prices hit record highs in 2004²³ is highly misleading because it ignores the fact that fuel prices in real dollars in 2004 were much lower than fuel prices during parts of both the 1970s and 1980s.^{24 25} Mr. Kasper makes a significant error by ignoring this fact, and he does not assert any justification for his use of nominal, rather than real dollars.

22. Related to his misdescription of fuel prices, Mr. Kasper seems to imply that high fuel prices were the overwhelming cause of consolidation in the airline sector.²⁶ If that is what Mr. Kasper means to opine, he is wrong. Many factors led to industry consolidation, including industry deregulation and the rise of low cost carriers, undercapitalized and/or over-leveraged carriers who lacked sufficient strength to withstand competitive pressure, network expansion that was too rapid for the associated markets to economically absorb, deployment of

²² Kasper Rep. ¶ 7. Elsewhere in my report, consistent with his report, I refer to nominal figures. It is important to use real figures here, however, as they demonstrate whether a particular price is or is not “unprecedented.”

²³ Kasper Rep. ¶ 9.

²⁴ And while Mr. Kasper is correct to say that the 2003-2004 rise in fuel prices was unforeseen. Kasper Rep. ¶ 8, this is a very incomplete statement; similar rises in fuel prices over the past 40 years were also unforeseen.

²⁵ Mr. Kasper devotes a significant amount of his report to demonstrating that fuel is very expensive, and that it eventually became BA’s largest cost. Kasper Rep. ¶¶ 22-32. I, of course, agree with the fact that fuel is currently BA’s largest cost. But this does not somehow undermine the fact that fuel prices were *not* unprecedented.

²⁶ Kasper Rep. ¶ 7.

uneconomic fleet types, flawed timing of market entry for upstarts or expansion of existing carriers, and the execution of unsustainable labor contracts.

2. Many Of Mr. Kasper's Background Statements Are Unrelated To Any Issue Raised By My Report And Are Misleading.

23. Mr. Kasper makes a number of general background statements that he does not connect to any of my opinions (and that do not appear to me to relate to any issue in the litigation).

24. He states that the airline industry has invested in more fuel efficient planes.²⁷ He does not explain why this general fact could be relevant.

25. He compares the price of domestic plane tickets in 2013 and 2000.²⁸ But British Airways does not fly domestically within the United States, and most of 2013 is outside the proposed class period.

(a) Even if a comparison of prices for domestic air travel between 2000 and 2013 were relevant to this case, Mr. Kasper has not really provided such a comparison. One cannot directly compare current ticket prices with tickets prices in the early 2000s because of the increasing trend towards unbundling—e.g., charges for luggage, food, seats—other changes such as increased change and cancelation fees, route revenue maximization opportunities amongst carriers in the

²⁷ Kasper Rep. ¶ 11.

²⁸ Kasper Rep. ¶ 12.

same alliance owing government approved antitrust price immunity,²⁹ and changing route capacity due to the consolidation that Mr. Kasper mentions (which leads to increased efficiencies in a number of other ways).

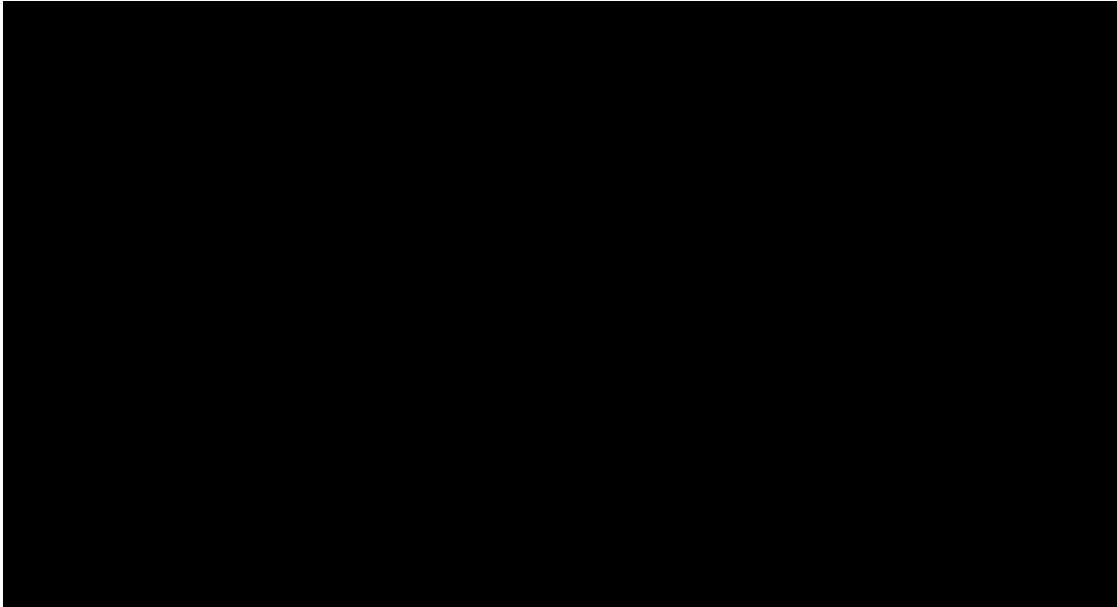
(b) Mr. Kasper seems to argue that falling prices on a particular route indicate that an airline's profitability on that route is declining. Setting aside that Mr. Kasper has not actually demonstrated that prices for air travel are falling, it is worth pointing out that falling prices do *not* necessarily mean that profitability is declining. Prices could fall and costs could fall even further. For example, some carriers could implement a focused cost reduction regime that could result in higher profits provided the drop in costs outpaced the decline in revenue. Or, prices may fall on a route because load factors are increasing (or airlines may be able to improve load factors in a falling price environment).³⁰ Indeed, load factors rose very significantly over the time period Mr. Kasper discusses.³¹

²⁹ An example would include the Joint Business Agreement between members of the oneworld Alliance that includes BA.

³⁰ Indeed, Mr. Kasper himself raises the subject of load factors. Kasper Rep. ¶ 14.

³¹ Source: Airline Data Project (Global Airline Industry Program), Massachusetts Institute of Technology, <http://web.mit.edu/airlinedata/www/Traffic&Capacity.html>. I reviewed BA's annual reports to determine its load factors.

Passenger Load Factors of US Air Carriers and British Airways

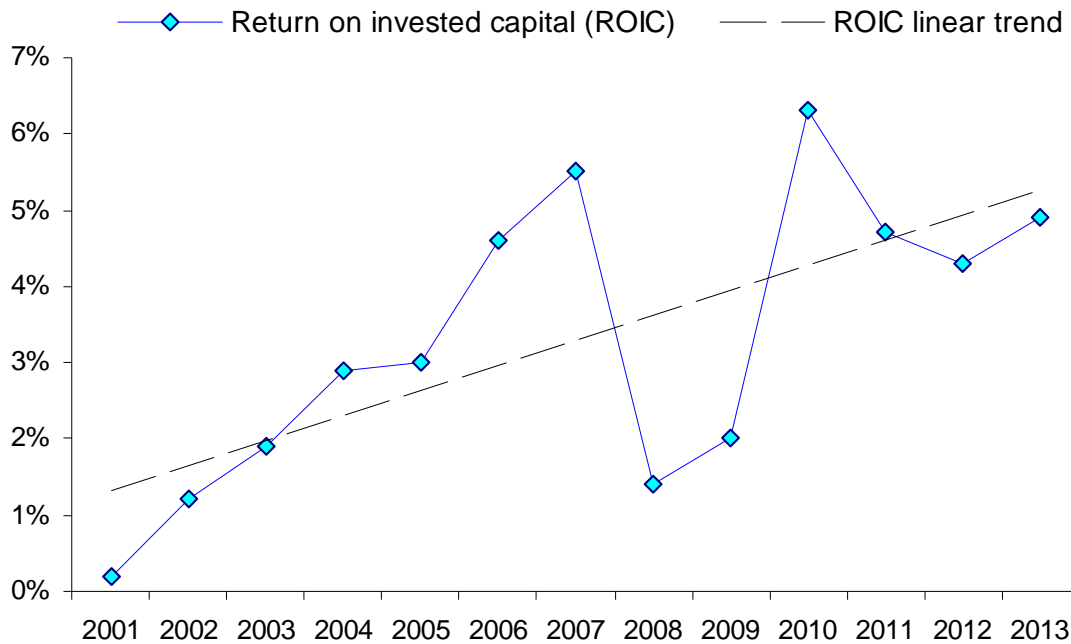


26. Mr. Kasper states that industry profitability was declining throughout the class period.³² But the return on invested capital (ROIC)³³ among IATA airlines *rose* between 2001 and 2013:

³² Kasper Rep. ¶ 13. Mr. Kasper does not present the complete picture when he discusses airline profitability. Kasper Rep. ¶ 14. Profitability is also impacted by the mix of passengers and airfare prices within the cabin(s), cabin seating configurations, operated aircraft type, frequency of service, cost controls, and other factors.

³³ ROIC assesses “a company’s efficiency at allocating the capital under its control to profitable investments. The return on invested capital measure gives a sense of how well a company is using its money to generate returns.” Source: <http://www.investopedia.com/terms/r/returnoninvestmentcapital.asp>.

Upward Trend in Return on Invested Capital of IATA Member Carriers³⁴



27. Even setting aside its lack of any relationship to the opinions expressed in my expert report, Mr. Kasper's discussion of airline bankruptcies is too flawed to help understanding any issue about the airline industry.³⁵ He simply presents a list of airlines that filed for bankruptcy between 2001 and 2013: he does not compare this number to anything that could make it meaningful, such as the failure rate for other businesses over that time period or a demonstration that more airlines failed between 2001 and 2013 than failed in the preceding 12 years. In other words, Mr. Kasper does not even purport to show that there was anything

³⁴ Source: Pearce, Brian, "Profitability and the Air Transport Value Chain", International Air Transport Association, June 2013. See <https://www.iata.org/whatwedo/Documents/economics/profitability-and-the-air-transport-value%20chain.pdf>.

³⁵ Kasper Rep. ¶ 16.

unique about 2001-2012 in the airline industry or anything about the airline industry that is particularly unique.³⁶ I note, moreover, that Mr. Kasper's data does not support his descriptive text. The text states "[o]ver fifty airlines filed for bankruptcy and/or failed between 2001 and mid-2012...", but the table lists fewer bankruptcies and failures—41—over a longer period of time (2001 to 2013).³⁷

28. Mr. Kasper says BA "successfully" avoided the need to reorganize.³⁸ I do not understand the issue in this case to be whether the YQ Charge was an intelligent business practice; but, rather, whether that charge was permitted by one specific contract with a specific subset of BA's customers. This said, two points are worth brief mention in response to Mr. Kasper:

(a) Mr. Kasper does *not* contend that the approximately [REDACTED]

[REDACTED] Dr. Arnold estimates would have occurred had

³⁶ Of course, the airline industry *is* a competitive industry and airlines face challenges. The point here is only that Mr. Kasper does not present any information or analysis that demonstrates this. But Mr. Kasper could be read to imply that an airline's primary option in the face of higher costs is bankruptcy. If he means to do that, he is wrong. Airlines have many options; for example, they can change their route network, change aircraft types in their fleet, change the mix of aircraft deployed on specific routes, change route frequencies, improve revenue management systems and analytics, reduce non-operational staffing and overheads, renegotiate labour contracts over pay, pension and work rule provisions, and even introduce entirely new subsidiaries with a lower cost structure. Examples of wholly owned, lower cost subsidiaries of major airlines include Air Canada Rouge (parent Air Canada), Envoy Air (parent American Airlines), Germanwings (parent Lufthansa Airlines), Jetstar Airways (parent Qantas Airways), SilkAir (parent Singapore Airlines), and Transavia (parent Air France-KLM). Indeed, BA itself operated a low cost subsidiary from 1998 to 2001 (BA Go!), which BA ultimately sold to EasyJet in 2002.

³⁷ Kasper Rep. ¶ 16; *see also* Table 1: Airline Bankruptcies/Failures: 2001-2013.

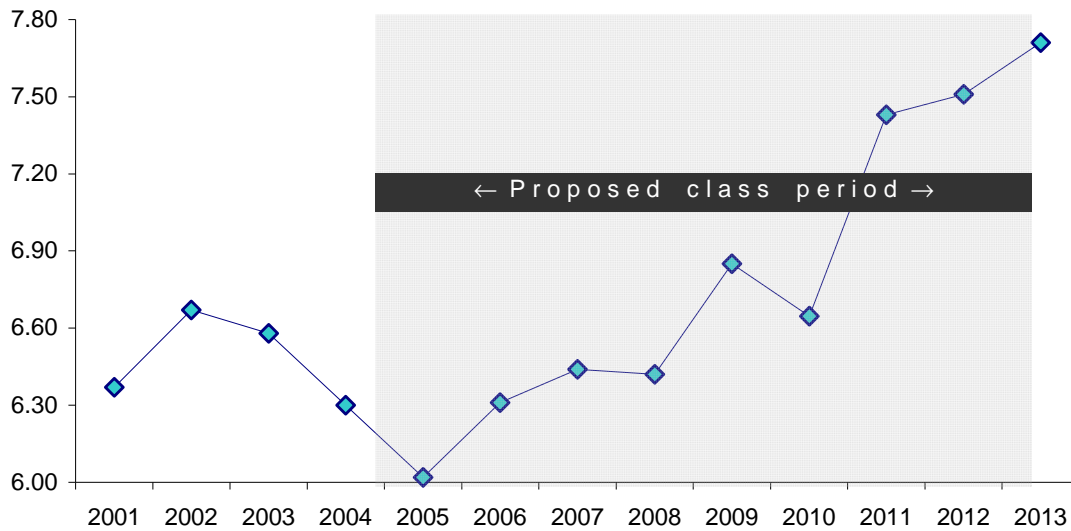
³⁸ Kasper Rep. ¶ 17.

BA adhered to its contractual obligations in this case would have prevented BA from succeeding. I have seen no evidence from Mr. Kasper, moreover, that would indicate that BA would not have been successful without that revenue.

(b) British Airways increased its yield during relevant timeframe in this case. Yield is one of the most important measures for an airline because it relates passenger revenues (inclusive of YQ Charges, unlike many of Mr. Kasper's analyses) to distance traveled.³⁹

³⁹ Yield is calculated by dividing passenger revenues inclusive of YQ Charges by revenue passenger kilometres (or revenue passenger miles as the case may be). To further explain the importance of yield as a revenue analytical methodology, take an airfare price of £100 over a 500 kilometre journey and an airfare price of £100 over an 800 kilometre journey. While the airfare price may be identical, the price extracted per kilometre of passenger travel is much different. The 500 kilometre journey generates a yield of 20 pence (£0.200) per kilometre, while the 800 kilometre journey generates a yield of 12.5 pence (£0.125) per kilometre. The shorter journey's airfare price results in a yield that is 7.5 pence higher than the longer journey, a major difference of 60 percent.

BA Passenger Yield (pence per revenue passenger kilometre)⁴⁰



29. Mr. Kasper seems to imply that airline deregulation was negative for BA.⁴¹ If that is what he means, he is wrong. Airlines overwhelmingly supported deregulation. Indeed, BA's profits soared following its deregulation in 1987.⁴² To illustrate this reality, in the year prior to deregulation, BA made a pre-tax profit of £195 million. One year after deregulation, in 1988, BA's pre-tax profit had already climbed 17 percent versus the 1986 level to £228 million. By 2006, pre-

⁴⁰ Source: BA Annual Reports. As BA changed its fiscal year in 2010, the data point in the chart for 2010 is based on a weighted average of the yield reported for the 12 months ending March 31, 2010 plus the nine months ending December 31, 2010.

⁴¹ Kasper Rep. ¶ 19.

⁴² See, e.g., Başer, Onur; Privatization of British Airways, Before and After 1987; <http://www.baserler.com/onur/isletme/Privatization%20of%20British%20Airways-Before%20and%20After.htm>.

tax profit had climbed to £620 million, a level more than three times that earned in the last year of regulation 20 years earlier.⁴³

30. Mr. Kasper lists a number of purported differences between the airline industry today and the airline industry in the late 1970s.⁴⁴ But he never connects any of factors he lists with the necessity of the type of YQ Charge imposed by BA. For purposes of completeness, however, I note that two of his statements are misleading:

(a) Mr. Kasper states that there was a deep global recession between 1979 and 1982. This is true, but there was also a deep global recession between 2000 and 2003.

(b) Mr. Kasper again references deregulation. As indicated above, this was *positive* for BA, not negative for it. And it is worth noting that there are *higher* airfare prices in many deregulated markets (those in which an airline has pricing power).⁴⁵

⁴³ Sources: Başer study noted in prior Footnote, plus data from BA annual reports. Data quoted is in nominal Pounds. Even if I convert these figures to inflation adjusted 2006 real British Pounds, the 2006 pre-tax profit would still be roughly 80 percent higher than the 1986 profit (CPI source: <http://www.whatsthecost.com/historic.cpi.aspx>).

⁴⁴ Kasper Rep. ¶ 21..

⁴⁵ Richards, David B., “Did Passenger Fare Savings Occur After Airline Deregulation?” Transportation Research Forum, Spring 2007, pp. 73-93. See <http://journals.oregondigital.org/trforum/article/view/986/881> (“...the grant of pricing freedom to the airline industry has generally resulted in average prices being higher than they would have been had regulation continued...”)

B. Mr. Kasper Primarily Attacks Positions I Do Not Take.

1. I Do Not Purport To Opine On The Meaning Of The Contract At Issue In This Litigation.

31. Mr. Kasper argues that my opinion regarding how BA “should” have applied a fuel surcharge is incorrect.⁴⁶ But I do not have any view regarding how BA should have applied a fuel surcharge. As I stated in my initial report, moreover, I do not have any view on the meaning of the phrase “fuel surcharge” as it appears in the contract.⁴⁷

32. Mr. Kasper makes a number of statements regarding what the contract in this case does or does not allow and what the term fuel surcharge in this case means.⁴⁸ I offer no opinion on these issues because I am neither a lawyer nor an economist.⁴⁹ But it is important to note that Mr. Kasper yet again attacks opinions I do not offer. For example, I do not imply, much less state, that BA should have set the YQ Charge on a per passenger or per route basis. I *do* say that the fact that the YQ Charge recovered more than the cost of fuel on some routes is evidence to me, *along with all of the other factors listed in my report*, that the YQ Charge was

⁴⁶ Kasper Rep. ¶ 40.

⁴⁷ Kokonis Rep. at 8, n. 5.

⁴⁸ Kasper Rep. ¶¶ 67-70, 73.

⁴⁹ As Mr. Kasper, too, is neither a lawyer nor an economist, and because he offers no alternative basis under which he is qualified to make these statements, it is unclear why he believes he is qualified to opine on this issue.

not truly designed to recover some portion of the costs of fuel, but was instead simply set at the highest level possible to maximize revenue.

2. The YQ Charge Was Designed To Maximize BA's Revenues.

33. Mr. Kasper states that “airlines seek to maximize the total revenue generated from each flight.”⁵⁰ I agree. But Mr. Kasper also opines that it does not matter whether airline services are bundled or unbundled.⁵¹ If he means what he wrote, he is completely wrong—the bundling or unbundling of services can indeed make a difference to travelers.⁵² That is the very reason that airlines have

⁵⁰ Kasper Rep. ¶ 46.

⁵¹ Kasper Rep. ¶ 47.

⁵² Successful low cost carrier pioneer, Southwest Airlines, does not charge customers separately for items other carriers charge such as baggage. A Southwest spokesperson noted the basis for this rationale: “Our research and business case are aligned with common sense: people don’t like to feel nicked and dimed and they have shown loyalty in their selection of Southwest Airlines when all other things are equal”. (<http://business.financialpost.com/news/transportation/airlines-go-a-la-carte-why-travellers-should-get-used-to-baggage-fees-and-more-unbundling>). Referring to the rise of ancillary fees through unbundling, Sally Greenberg, Executive Director of the Washington, DC based non-profit advocacy group, National Consumers League, stated: “People want fair, and many of these fees aren’t fair” (<http://www.usatoday.com/story/travel/flights/2013/09/13/dont-fall-for-airlines-unbundling-ploy/2811265/>). Anne Banas, Executive Editor of SmarterTravel.com, commented that “[f]or consumers the trend is not a good one...For the consumer, it is very confusing. Unless the consumer fights back, airlines are going to keep getting away with this and make it harder to make a good decision” (http://articles.chicagotribune.com/2013-07-14/business/ct-biz-0714-fees-20130714_1_frontier-airlines-airline-prices-new-fees). Regarding ancillary fees, a CNN investigative story noted that “As a result, ticket prices that initially appear good value rapidly rise once an array of extra expenses are factored in to the equation” (<http://www.cnn.com/2012/07/10/travel/airline-charges/index.html>). In the same article, Chris Gray, deputy editor of UK-based consumer magazine Which? Travel, noted that “These [fees] are often sprung on customers at the end of a long booking process, catching them out unfairly”.

unbundled services over the past decade.⁵³ I assume that what he meant to have written is that a revenue passenger generally does not care whether a particular component of the ticket price is denominated “fare” or “YQ Charge.” This supports my conclusion in this case—BA set its YQ Charges as part of its overall revenue maximization scheme, not to try to recover some certain percentage of costs.⁵⁴

34. Mr. Kasper states that my opinions are “fundamentally flawed” based on a false dichotomy between “cost recovery” and “revenue maximization.”⁵⁵ He never explains what opinions might be flawed or why, so it is difficult to fully respond to this criticism. What I will state based on my experience in the airline industry is that there is a significant, meaningful difference between setting a surcharge based on fluctuations in the cost of some particular input (and then engaging in competitive pricing behavior with that surcharge as the “base” charge) and setting a surcharge at the highest level the market will bear in an effort to maximize revenues. As I explained in my initial report, the latter is what British Airways did, and Mr. Kasper never disputes this in any meaningful way.

⁵³ Indeed, the CAPA Centre for Aviation notes that “Ancillary revenue is a hot topic for the airline industry, as it seeks to cope with pressures on top line revenues from ticket sales amid intense competition (see: <http://centreforaviation.com/profiles/hot-issues/ancillary-revenues>.)

⁵⁴ As I explain above, a contrary example would be something like the insurance charge, where some airlines pass through the cost of insurance to customers and then set other components of price competitively, taking that pass-through charge into account.

⁵⁵ Kasper Rep. ¶ 54.

35. Mr. Kasper cites secondary literature to list a number of advantages to YQ Charges from the perspective of an airline.⁵⁶ This literature largely mirrors the factors that I listed in my initial report. I agree with the reasons that such charges are attractive from an airline's perspective. This says absolutely nothing, however, about whether British Airways' YQ Charges were simply a charge designed to garner as much revenue as possible without any specific consideration of fuel costs. As I explain in my initial report, they were.

36. Mr. Kasper states that surcharges can be a better revenue driver than changes to the fare.⁵⁷ I made this same point in my initial report,⁵⁸ but this fact does not somehow mean that the YQ Charges were based on the cost of fuel.

(a) Mr. Kasper states that it is possible to adjust YQ Charges more frequently than the base fare.⁵⁹ I do not necessarily disagree; in fact, I specifically opine that BA could have changed YQ Charges at *least* quarterly, and Mr. Kasper seems to imply that they could have changed them even more frequently than this. I do note, however:

⁵⁶ Kasper Rep. ¶¶ 33-39.

⁵⁷ Kasper Rep. ¶ 48(a).

⁵⁸ Kokonis Rep. ¶ 13 (discussing how YQ Charges would be set to the highest level the market could bear when the charge is primarily used to increase and manage revenues).

⁵⁹ Kasper Rep. ¶ 48(b).

(i) BA did *not* change its YQ Charge more frequently than it changed its fares.⁶⁰ Mr. Kasper does not disagree with me about this.

(ii) There is no reason a YQ Charge could be adjusted more quickly than a Q Charge.⁶¹ Mr. Kasper does not disagree with me about this.

(b)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(c) Mr. Kasper states that a YQ Charge is superior to fare increases in part because a YQ Charge is imposed on redemption customers.⁶⁴ The fact that the YQ Charge was imposed on redemption customers does not somehow make it commercially appropriate. Indeed, I understand that Dr. Arnold has concluded that these YQ Charges were not true fuel surcharges and thus were *inappropriate* under the contract at issue in this case.

⁶⁰ Kokonis Rep. at 42, ¶ 44(c).

⁶¹ Kokonis Rep. at 41.

⁶² Kasper Rep. ¶ 48(b).

⁶³ See Foran Ex. 249 (BA00077241).

⁶⁴ Kasper Rep. ¶ 48(c).

(d) Mr. Kasper makes a number of statements about the intelligence from an airline's perspective of making the YQ Charge non-refundable.⁶⁵ I do not disagree that British Airways gained advantages from this. But for the reasons explained in my initial report (e.g., that BA could recover two YQ Charges for a single seat), this indicates to me yet another reason that the YQ Charge was simply set at the highest level possible.

(e) Mr. Kasper claims that BA's practices were "quite similar to other major airlines."⁶⁶ This statement is not supported by his citation, which shows only that a *single* other carrier assessed a similar fuel surcharge to BA. And he does *not* say that this carrier's frequent flier contract was written similarly to BA's frequent flier contract, which I understand to be the issue in this case.

37. Mr. Kasper says that I assume BA should have ignored its competitors' pricing and practices.⁶⁷ I never imply, much less state, any such thing. The airline industry is a competitive one, and airlines *should* set the total price of revenue tickets with their competitors in mind. What I did explain—and Mr. Kasper never truly disagrees with me—is that the YQ Charge was a charge

⁶⁵ Kasper Rep. ¶¶ 123-126.

⁶⁶ Kasper Rep. ¶ 137.

⁶⁷ Kasper Rep. at 22, n. 55.

that was designed to capture as much revenue as possible, nothing more and nothing less.⁶⁸

38. Mr. Kasper disagrees with my statement that a “fuel surcharge may itself be viewed as commercially unreasonable.”⁶⁹ In other words, he opines that a charge that is called a “fuel surcharge” is *always* commercially reasonable. He is wrong: simply calling a charge a “fuel surcharge” does not somehow make a charge commercially reasonable, and he offers no citation or support for his incorrect statement. Mr. Kasper’s position that a charge called a “fuel surcharge” must be commercially reasonable fully mirrors BA’s views throughout the class period, and it epitomizes the precise issue I highlighted in my opening report—BA was simply trying to maximize its revenues and happened to call one of the ways it tried to maximize its revenues a “fuel surcharge.” But calling a charge a “fuel surcharge” does not automatically make it one.⁷⁰

39. Mr. Kasper says that I assert that certain revenue maximization practices are not commercially reasonable.⁷¹ He does not cite my report for this

⁶⁸ Mr. Kasper quotes selectively from BA executives saying that it was cost recovery, but he never offers any data or analysis in support of that proposition, and, indeed, seems to *agree* that the YQ Charge was simply part of BA’s total price.

⁶⁹ Kasper Rep. ¶ 48.

⁷⁰ I again stress that I do not propose a particular definition of fuel surcharge and am opining only on the issue of how BA used its YQ Charge—my point here is that simply calling a term one thing does not automatically make it that thing.

⁷¹ Kasper Rep. ¶ 61.

and nowhere do I imply, much less state, that the practices he mentions are not commercially reasonable (so long as they are contractually permitted). Relatedly, Mr. Kasper makes a number of points about the ways in which varying competitive pricing by point of sale is an intelligent revenue maximization strategy.⁷² As I have explained, the fact that the YQ Charge varied based on point of sale is one of many reasons I concluded that the charge was set purely to maximize revenues.⁷³

3. Mr. Kasper Is Correct To State That Some Portion Of The Base Fare Covers The Cost Of Fuel.

40. Mr. Kasper opines that that “some portion of [the] fare goes to cover the cost of fuel.”⁷⁴ I strongly agree. Indeed, the base fare can in fact cover *all* of the cost of fuel, as it did for BA prior to 2004 and as it has done for BA on its short-haul flights since December 2014. For example, Northwest Airlines and Delta Air Lines operated without a fuel surcharge throughout the entire class period (save a handful of weeks in 2008).

4. Mr. Kasper’s Statements About Changing Airline Fares Are Incoherent.

41. Mr. Kasper makes a number of statements about airline fares that, collectively, are incoherent.⁷⁵

⁷² Kasper Rep. ¶¶ 62-66.

⁷³ Kokonis Rep. ¶ 22.

⁷⁴ Kasper Rep. ¶ 44.

⁷⁵ Kasper Rep. ¶¶ 59-61.

42. Mr. Kasper begins his discussion of airline fares by using the term “fare structure,” and states that these do not change “frequently.” The term “fare structure” has a number of possible meanings, and Mr. Kasper does not explain which of these meanings he has in mind. It thus is not possible to evaluate the accuracy of this statement, which is not supported by data, analysis, or any citation at all.⁷⁶

43. Mr. Kasper says that the fares change frequently using complex algorithms.⁷⁷ I agree. I do not understand, however, how he can argue elsewhere in his report that it would not have been possible to frequently change the fare when he acknowledges here that BA *did* frequently change the fare.

44. In a footnote, Mr. Kasper says without an explanation that the fact complex algorithms were used to change fares frequently does not mean that algorithms could have been used to automatically change the YQ Charge. He does not explain why he thinks this, nor does he support this statement with any testimony, data, or citation. Based on my experience in the industry, for the

⁷⁶ Similarly, Mr. Kasper refers to changing the “fare ladder.” Kasper Rep. ¶ 133. Just as with fare structure, fare ladder can have multiple meanings. Again, Mr. Kasper does not support his statement with data or analysis, so it is not possible to respond except to say again that there is no reason that BA cannot adjust its fares quarterly—BA already changes its fares thousands of times each day.

⁷⁷ Kasper Rep. ¶ 60.

reasons explained in my initial report, his unsupported speculation is simply wrong.⁷⁸

5. BA Recovered More Than The Incremental Cost Of Its Fuel On A Number Of Routes.

45. Mr. Kasper offers a number of criticisms of my analysis showing that BA recovered more than the incremental cost of fuel on a number of its flights.⁷⁹ None of them cause me to change my fundamental analysis.⁸⁰ I do adjust one of my tables, however. In my initial report, I implicitly assumed that if BA flew a route today, it had also flown that route in both 2003 and 2011. Mr. Kasper noted that this was not true for five of the examples included in my initial demonstrative.⁸¹ Below, I have replaced those five examples with five different examples. These include only routes BA flew in both 2003 and 2011.⁸²

⁷⁸ Kasper Rep. ¶ 60, n. 58.

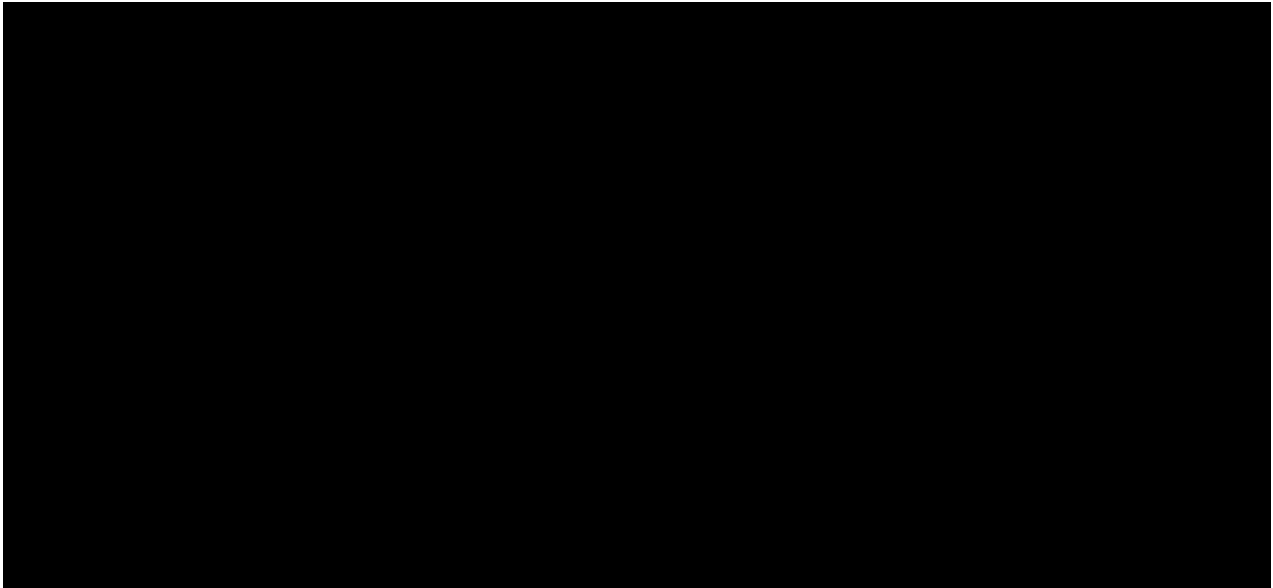
⁷⁹ Kasper Rep. ¶¶ 82-90.

⁸⁰ I note that Mr. Kasper opines that BA is not trying to maximize profits on each of its flights. See Kasper Rep. ¶ 74. This opinion strongly undermines his claim to understand the airline industry. Airlines have complex route profitability systems that are designed to ensure that revenues *are* maximized on a route-by-route basis. He purportedly quotes testimony for the proposition that [REDACTED]

⁸¹ In particular, BA did not operate LBD, BHD, GYD or DUB in either 2003 or 2011 to/from LHR, and, while BA served NCL in 2011, that destination to/from LHR was not served in 2003. In other words, these five examples describe what hypothetically would have occurred, not what actually occurred.

⁸² I made one other change to the demonstrative below as compared to the one in my initial report. Although Mr. Kasper did not find this noteworthy, three destinations showed a slightly

Total YQ Charge Recovery vs. Fuel Cost Based on British Pounds⁸³



46. Mr. Kasper's methodological criticisms of the above analysis miss the mark.

(a) Mr. Kasper argues that BA *could* have used different planes in 2003 and 2011. Mr. Kasper never states that BA *did* or that any changes would alter the analysis materially. He also did not give any analysis of how varying fleet types in 2003 and 2011 would have affected the rate of YQ Charge recovery. Based on my experience in the airline industry, there is no reason to assume that any changes would have altered my fundamental conclusions.

higher level of over-recovery in the chart in my initial report as compared to the back-up table in Appendix C. The slightly lower recovery levels for BRU, CDG and GLA in the table were correct and, as such, are now reflected in the revised chart below.

⁸³ In this chart, the term "vs. 2003" refers to the difference in fuel costs between 2011 and 2003.

(b) Mr. Kasper notes that BA placed orders for a variety of aircraft in the mid-2000s.⁸⁴ This statement is puzzling, as he does not connect it to anything in the litigation, much less in my report. Among other things, he does not say that these were delivered during the relevant time period, used on any of these routes that I discuss in my report, that these aircraft would have somehow materially altered my analysis if they *had* been used on one of the above routes, or that these aircraft orders were relevant to BA's overall cost or revenue structure in a way that would alter any conclusion in my report. Even more confusingly, Mr. Kasper references the Boeing 787 and Airbus A380 as part of this discussion.⁸⁵ The first types of both aircraft were not delivered to BA until June 2013 and July 2013 respectively (after the end of the proposed class period).⁸⁶ I can discern no reason that Mr. Kasper would mention these particular aircraft orders, and Mr. Kasper does not provide one.

(c) Mr. Kasper notes that BA took actual delivery of 7 airplanes in 2011.⁸⁷ But he does not say that they were used on any of these routes that I discuss in my report, that these aircraft would have somehow materially altered my

⁸⁴ Kasper Rep. ¶ 84.

⁸⁵ Kasper Rep. ¶ 84.

⁸⁶ Sources: <http://www.airfleets.net/flottecie/British%20Airways.htm>; http://www.thestar.com/news/gta/2013/09/02/ba_dreamliner_completes_inaugural_londontoronto_flight.html; <http://www.bbc.com/news/business-23177384>.

⁸⁷ Kasper Rep. ¶ 84.

analysis if they *had* been used on one of the above routes, or that these aircraft orders were relevant to BA's overall cost or revenue structure in a way that would alter any conclusion in my report. It is thus unclear why he lists these deliveries.

(d) Mr. Kasper states that BA took delivery of three airplanes in 2012.⁸⁸ He says that this demonstrates that I used the wrong airplanes in my analysis. This is incoherent for three reasons. First, these aircraft were delivered in 2012—my analysis compares 2003 and 2011. Second, he does not say that these three aircraft were used on any of the routes I selected. Third, he does not say that the analysis would materially change if any of these planes had been used.

(e) Mr. Kasper notes that BA flew a mix of Boeing 777, Boeing 747-400 and Boeing 767 to Dubai, whereas I used only one of these aircraft types for my comparison.⁸⁹ As I stated in my initial report, I provided examples—I did not represent my list to be a comprehensive one. Indeed, Mr. Kasper himself notes that the Boeing 777, the aircraft type I used in my analysis, was deployed by BA in both 2003 and 2011. In any event, it is unclear why he thought this might matter—he does not contend that the specific mixture of aircraft on this route would materially alter any part of my analysis.⁹⁰

⁸⁸ Kasper Rep. ¶ 85.

⁸⁹ *Id.*

⁹⁰ As expected, it is *not* relevant. When I checked the Dubai route using the aircraft noted by Mr. Kasper, such that 2011 takes an average of three aircraft types—B777-300ER, B767-300ER, and

(f) Mr. Kasper states, without citation or analysis, that I somehow understated 2003 fuel costs in my analysis.⁹¹ Mr. Kasper could have done his own analysis had he wanted to do so, but did not, and his uncited speculation does not undermine my work.

(g) Mr. Kasper states that my fuel consumption calculations in Appendix C of my initial report are unclear.⁹² Again, however, Mr. Kasper opines in general on my methodology but neglects to provide any specific examples of what is unclear to him. The fact that Mr. Kasper somehow does not understand my tables undermines his claim to be an industry expert: I explained the precise basis of my calculations. And my fuel consumption rates per aircraft type per route were calculated using best practices, using credible industry sources (plus the quoted analytics of a BA manager).⁹³

(h) Mr. Kasper states that BA allowed certain customers in 2011 to avoid a small number of fuel surcharges on certain flights. This has no relevance whatsoever—there is no reason to think that the tiny number of customers

B747-400—and 2003 takes an average of two aircraft types—B777-200ER (4-class version) and B747-400, I found that this route was still an example of an “over-recovery.”

⁹¹ Kasper Rep. ¶ 86.

⁹² Kasper Rep. at 31, n. 65.

⁹³ I have used my calculation methodology in operational and financial evaluations at IATA and non-IATA air carriers worldwide without rebuke or criticism.

impacted by this 2011 change would materially alter my analysis, and Mr. Kasper offers none. And Mr. Kasper does not opine to the contrary.⁹⁴

(i) Mr. Kasper says that the routes are irrelevant because they are not one of the top 25 routes flown by frequent flier customers. He does not explain the basis for this illogical statement, and I can discern none. Similarly, he notes that none of the routes in the initial report's chart originated in the U.S. or were not Transatlantic. I fail to understand why this is relevant, particularly because US-resident Executive Club members could redeem their points for travel throughout BA's worldwide network.

(j) Mr. Kasper notes that many of the examples in my opening report involved relatively shorter flights. He does not explain why this might matter, and it does not. My calculations above are simply one component of the many analyses in my opening report that causes me to conclude that the YQ Charge was simply set to maximize revenue. And I again note that Mr. Kasper does not seem to disagree with this fundamental conclusion.

⁹⁴ I note that the program he discussed began in November 2011, meaning that it would not even have been applicable to the first 10 months of 2011. http://www.tripadvisor.ca/ShowTopic-g1-i10702-k4859177-More_from_BA_on_Avios_other_changes-Air_Travel.html.

6. BA Executives Described The YQ Charges In Many Different Ways.

47. Mr. Kasper has collected quotations where BA executives use similar language to describe the fuel surcharge to each other.⁹⁵ That cannot undermine the fact that they frequently used very *dissimilar* language to each other, as explained in my initial report.⁹⁶

48. Mr. Kasper states that “fuel was an ever present consideration.”⁹⁷ This is pure speculation for which he offers no citation or analysis. I would add, moreover, that Mr. Kasper assumes what he sets out to prove: that what matters is the total fuel bill relative to 2003. I see nothing in his background that would allow him to make this type of assumption or to reach such a conclusion.

7. Mr. Kasper’s Residual Criticisms Do Not Undermine My Conclusions.

49. Mr. Kasper implies that airlines do not have a high degree of confidence in what aircraft it will fly or how the jet stream will behave on a certain route in the aggregate.⁹⁸ If that is an opinion he intends to offer, he is simply wrong. As I explain in my initial report, airlines do know this information with a high degree of accuracy, and Mr. Kasper never actually disagrees with me about

⁹⁵ Kasper Rep. ¶¶ 91-98.

⁹⁶ Kokonis Rep. at 19, ¶¶ 19-23.

⁹⁷ Kasper Rep. ¶ 97.

⁹⁸ Kasper Rep. ¶ 72.

this. Put another way, many things are theoretically possible: my report focuses on what is highly probable.

50. Mr. Kasper briefly criticizes me for not taking the exchange rate into account.⁹⁹ As I noted in Appendix B to my initial report, the exchange rate was relatively stable for most of the class period and BA was well-protected against changes in currency for the brief part of the class period when the British Pound was falling. Indeed, Mr. Kasper never purports to demonstrate that changes in the exchange rate actually would have impacted any aspect of my analysis, and he cannot do so for the reasons stated in Appendix B.¹⁰⁰

51. Mr. Kasper engages in a significant amount of speculation about the theoretical ways that hedging might have varied from the way it is described in my report.¹⁰¹ He offers no analysis at all to demonstrate that any of these hypothetical,

⁹⁹ Kasper Rep. ¶ 78.

¹⁰⁰ Mr. Kasper purports to show one year in which BA experienced some quarterly hedging losses. Even if this were relevant, it is misleading for three reasons. First, while BA did record fuel hedging losses in the third and fourth quarters of FY 2008/09, the company's total year reported hedging loss was GBP 18 million (*see* BA Annual Report, 2008/09) owing to hedging gains in the first and second quarters as evidenced in Mr. Kasper's own chart. The charts in my initial report refer to annual results—Mr. Kasper's discussion of second half 2008/09 hedging losses lack any reference to first half hedging gains and does nothing to address the fundamental year-over-year discrepancy I showed between net fuel cost and YQ Charges. Second, while my analysis compared FY 2008/09 with FY 2009/10, Mr. Kasper adds three fiscal years into his chart prior to 2008/09, yet does not show the other year in my analysis (FY 2009/10) or any fiscal year subsequent to that. Third, BA posted a fuel hedging gain in 13 of the 16 quarters Mr. Kasper shows in his chart. Mr. Kasper does not bother to relate those gains to other parts of his analysis, nor to the quarterly rate of change in YQ Charges, nor to any part of my initial analysis.

¹⁰¹ Kasper Rep. ¶¶ 106-122.

theoretical variances actually occurred, much less matter, to any issue in this case, and they do not. For example, he talks about how a hypothetical swing in fuel prices could have impacted BA, but he never purports to link this hypothetical with anything that actually occurred in the real world.

52. Mr. Kasper states [REDACTED]

[REDACTED]¹⁰² This may be true, but it is irrelevant. Mr. Kasper does *not* opine that it would have been particularly complicated for BA to simply change its website. In other words, he does not disagree with my conclusion that BA could have use a Q surcharge (just as Northwest Airlines and Delta Air Lines did) and thus changed essentially none of its business practices other than the practice of assessing this particular charge on its redemption customers.

53. Mr. Kasper states that he is not aware of carriers who used the base fare to capture most of the cost of fuel and then used a YQ charge to capture fluctuations in the cost of fuel.¹⁰³

(a) His statement may technically be true, but it makes no sense in context. There are many, many carriers with no fuel surcharges *at all*, for example, setting aside a handful of weeks in 2008, neither Northwest nor Delta Air Lines has ever had a fuel surcharge, as Mr. Kasper implicitly acknowledges

¹⁰² Kasper Rep. ¶¶ 131-32.

¹⁰³ Kasper Rep. ¶¶ 133-40.

elsewhere. And BA itself had no surcharges until 2004, and it eliminated them on certain flights (all short-haul flights) in December 2014. It is thus apparent that BA could use a YQ charge only to capture fluctuations in the cost of fuel and use the base fare to recover normal, expected fuel costs.

(b) Mr. Kasper never states that this would not have been possible, only that he does not see how it would have benefited British Airways. But I do not understand that to be the question here. If Plaintiffs' ultimate claims in this case are true (and I have no opinion about this), this alternative would have been one way to comply with BA's contractual obligations, in contrast to BA's actual practices, which Plaintiffs claim did not.

IV. MY RESPONSE TO AN ADDITIONAL QUESTION FROM DR. JONATHAN ARNOLD

54. In response to certain opinions in BA's expert reports, Dr. Arnold has asked me whether travelers pay the "Y fare" frequently. The answer is no. The "Y fare," also referred to as full-fare economy, in some cases could be higher than some promotional business class or less flexible business class fares, and it could sometimes be closer in price to flexible business class fares than it is to a number of other economy fares. Additionally, what is called a "B fare" can have essentially all of the material advantages of a "Y fare" (both are highly flexible), but the "B fare" can be much less expensive. For these reasons, the "Y fare" is only very seldom paid by actual travelers.

V. CONCLUSION

55. I reviewed and considered Mr. Kasper's report carefully. It does not change my opinions in this litigation. Indeed, his report largely did not address my actual opinions at all.

56. I observe that Mr. Kasper appears to agree with my conclusion in this case: that the YQ Charge was set solely to maximize BA's revenues.

A handwritten signature in dark ink, appearing to read 'Robert J. Kokonis', with a long horizontal line extending to the right.

Robert J. Kokonis
President and Managing Director
July 15, 2015

APPENDIX A – CALCULATIONS FOR “OVERRECOVERY” ANALYSIS

Legend of Acronyms Used Below

IATA airport code	City, Country	Aircraft code	Aircraft name
MAN	Manchester, UK	A319	Airbus 319-100
BRU	Brussels, Belgium	A320	Airbus 320-200
DXB	Dubai, UAE	A321	Airbus 321-200
CDG	Paris (Charles de Gaulle), France	B763	Boeing 767-300ER
GLA	Glasgow, UK	B772	Boeing 777-200ER
AMS	Amsterdam, Netherlands	B773	Boeing 777-300ER
JED	Jeddah, Saudi Arabia		
LUX	Luxembourg, Grand Duchy of Luxembourg		
ABZ	Aberdeen, UK		
ACC	Accra, Ghana		
DUS	Düsseldorf, Germany		
KWI	Kuwait City, Kuwait		
YUL	Montréal, Canada		

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British Airways fuel cost versus YQ Charge recovery - FY2011 analysis

No.	Name	Age	Gender	Marital Status	Religion	Education	Occupation	Family Income			Household Assets			
								Monthly	Annual	Other	Land	House	Vehicle	
														INR
101	Mr. Ramesh Kumar	45	Male	Married	Hindu	12th	Software Engineer	15000	180000	50000	1000	2000	1000	2000
102	Mrs. Priya Singh	38	Female	Married	Hindu	10th	Teacher	12000	144000	40000	800	1600	800	1600
103	Mr. Arjun Patel	52	Male	Married	Hindu	11th	Business Owner	20000	240000	80000	1500	3000	1500	3000
104	Mrs. Neha Sharma	35	Female	Married	Hindu	9th	Homemaker	10000	120000	30000	600	1200	600	1200
105	Mr. Vikram Singh	48	Male	Married	Hindu	13th	Doctor	18000	216000	60000	1200	2400	1200	2400
106	Mrs. Anjali Kulkarni	40	Female	Married	Hindu	10th	Manager	14000	168000	45000	900	1800	900	1800
107	Mr. Rohan Gupta	30	Male	Single	Hindu	12th	IT Professional	16000	192000	55000	1100	2200	1100	2200
108	Mrs. Divya Reddy	33	Female	Married	Hindu	11th	Marketing Executive	13000	156000	42000	840	1680	840	1680
109	Mr. Karan Singh	55	Male	Married	Hindu	10th	Retired	11000	132000	35000	700	1400	700	1400
110	Mrs. Pooja Joshi	36	Female	Married	Hindu	12th	Software Engineer	17000	204000	65000	1300	2600	1300	2600

¹⁰⁴ Of the five routes I added to this revised table, Accra (ACC) was analyzed based on the weighted average of two aircraft types, the B763 and B772. According to an industry note on October 24, 2011 re LHR-ACC “First Class service on Boeing 777-200ER introduced in S11 is maintained in winter season” (see <http://airlineroute.net/2011/10/24/ba-w11-update5/>). An earlier update noted that “per GDS timetable display on 17JUN09, British Airways’ daily LHR-Accra service from 11OCT09 is to be operated by Boeing 777, replacing 767” (see <http://airlineroute.net/category/british-airways/page/18/>). From these industry notes it is implied a three-class B772 was deployed by BA on LHR-ACC-LHR for at least part of the period between October 11, 2009 and the 2011 Summer schedule (which would have commenced April 1, 2011), and a B763 was deployed prior to October 11, 2009. BA commenced Accra on April 2, 2003 (see <http://www.modernghana.com/news/21273/1/british-airways-starts-daily-accra-london-service-.html>).

British Airways fuel cost versus YQ Charge recovery - FY2011 analysis

Category	Sub-category	Fuel Cost	YQ Charge	Recovery	Difference	Percentage	Total	Total	Total
Category 1	Sub-category 1.1	100	100	100	0	0%	100	100	100
	Sub-category 1.2	200	200	200	0	0%	200	200	200
	Sub-category 1.3	300	300	300	0	0%	300	300	300
	Sub-category 1.4	400	400	400	0	0%	400	400	400
	Sub-category 1.5	500	500	500	0	0%	500	500	500
Category 2	Sub-category 2.1	600	600	600	0	0%	600	600	600
	Sub-category 2.2	700	700	700	0	0%	700	700	700
	Sub-category 2.3	800	800	800	0	0%	800	800	800
	Sub-category 2.4	900	900	900	0	0%	900	900	900
	Sub-category 2.5	1000	1000	1000	0	0%	1000	1000	1000
Category 3	Sub-category 3.1	1100	1100	1100	0	0%	1100	1100	1100
	Sub-category 3.2	1200	1200	1200	0	0%	1200	1200	1200
	Sub-category 3.3	1300	1300	1300	0	0%	1300	1300	1300
	Sub-category 3.4	1400	1400	1400	0	0%	1400	1400	1400
	Sub-category 3.5	1500	1500	1500	0	0%	1500	1500	1500
Category 4	Sub-category 4.1	1600	1600	1600	0	0%	1600	1600	1600
	Sub-category 4.2	1700	1700	1700	0	0%	1700	1700	1700
	Sub-category 4.3	1800	1800	1800	0	0%	1800	1800	1800
	Sub-category 4.4	1900	1900	1900	0	0%	1900	1900	1900
	Sub-category 4.5	2000	2000	2000	0	0%	2000	2000	2000
Category 5	Sub-category 5.1	2100	2100	2100	0	0%	2100	2100	2100
	Sub-category 5.2	2200	2200	2200	0	0%	2200	2200	2200
	Sub-category 5.3	2300	2300	2300	0	0%	2300	2300	2300
	Sub-category 5.4	2400	2400	2400	0	0%	2400	2400	2400
	Sub-category 5.5	2500	2500	2500	0	0%	2500	2500	2500
Category 6	Sub-category 6.1	2600	2600	2600	0	0%	2600	2600	2600
	Sub-category 6.2	2700	2700	2700	0	0%	2700	2700	2700
	Sub-category 6.3	2800	2800	2800	0	0%	2800	2800	2800
	Sub-category 6.4	2900	2900	2900	0	0%	2900	2900	2900
	Sub-category 6.5	3000	3000	3000	0	0%	3000	3000	3000
Category 7	Sub-category 7.1	3100	3100	3100	0	0%	3100	3100	3100
	Sub-category 7.2	3200	3200	3200	0	0%	3200	3200	3200
	Sub-category 7.3	3300	3300	3300	0	0%	3300	3300	3300
	Sub-category 7.4	3400	3400	3400	0	0%	3400	3400	3400
	Sub-category 7.5	3500	3500	3500	0	0%	3500	3500	3500
Category 8	Sub-category 8.1	3600	3600	3600	0	0%	3600	3600	3600
	Sub-category 8.2	3700	3700	3700	0	0%	3700	3700	3700
	Sub-category 8.3	3800	3800	3800	0	0%	3800	3800	3800
	Sub-category 8.4	3900	3900	3900	0	0%	3900	3900	3900
	Sub-category 8.5	4000	4000	4000	0	0%	4000	4000	4000
Category 9	Sub-category 9.1	4100	4100	4100	0	0%	4100	4100	4100
	Sub-category 9.2	4200	4200	4200	0	0%	4200	4200	4200
	Sub-category 9.3	4300	4300	4300	0	0%	4300	4300	4300
	Sub-category 9.4	4400	4400	4400	0	0%	4400	4400	4400
	Sub-category 9.5	4500	4500	4500	0	0%	4500	4500	4500
Category 10	Sub-category 10.1	4600	4600	4600	0	0%	4600	4600	4600
	Sub-category 10.2	4700	4700	4700	0	0%	4700	4700	4700
	Sub-category 10.3	4800	4800	4800	0	0%	4800	4800	4800
	Sub-category 10.4	4900	4900	4900	0	0%	4900	4900	4900
	Sub-category 10.5	5000	5000	5000	0	0%	5000	5000	5000
Category 11	Sub-category 11.1	5100	5100	5100	0	0%	5100	5100	5100
	Sub-category 11.2	5200	5200	5200	0	0%	5200	5200	5200
	Sub-category 11.3	5300	5300	5300	0	0%	5300	5300	5300
	Sub-category 11.4	5400	5400	5400	0	0%	5400	5400	5400
	Sub-category 11.5	5500	5500	5500	0	0%	5500	5500	5500
Category 12	Sub-category 12.1	5600	5600	5600	0	0%	5600	5600	5600
	Sub-category 12.2	5700	5700	5700	0	0%	5700	5700	5700
	Sub-category 12.3	5800	5800	5800	0	0%	5800	5800	5800
	Sub-category 12.4	5900	5900	5900	0	0%	5900	5900	5900
	Sub-category 12.5	6000	6000	6000	0	0%	6000	6000	6000
Category 13	Sub-category 13.1	6100	6100	6100	0	0%	6100	6100	6100
	Sub-category 13.2	6200	6200	6200	0	0%	6200	6200	6200
	Sub-category 13.3	6300	6300	6300	0	0%	6300	6300	6300
	Sub-category 13.4	6400	6400	6400	0	0%	6400	6400	6400
	Sub-category 13.5	6500	6500	6500	0	0%	6500	6500	6500
Category 14	Sub-category 14.1	6600	6600	6600	0	0%	6600	6600	6600
	Sub-category 14.2	6700	6700	6700	0	0%	6700	6700	6700
	Sub-category 14.3	6800	6800	6800	0	0%	6800	6800	6800
	Sub-category 14.4	6900	6900	6900	0	0%	6900	6900	6900
	Sub-category 14.5	7000	7000	7000	0	0%	7000	7000	7000
Category 15	Sub-category 15.1	7100	7100	7100	0	0%	7100	7100	7100
	Sub-category 15.2	7200	7200	7200	0	0%	7200	7200	7200
	Sub-category 15.3	7300	7300	7300	0	0%	7300	7300	7300
	Sub-category 15.4	7400	7400	7400	0	0%	7400	7400	7400
	Sub-category 15.5	7500	7500	7500	0	0%	7500	7500	7500
Category 16	Sub-category 16.1	7600	7600	7600	0	0%	7600	7600	7600
	Sub-category 16.2	7700	7700	7700	0	0%	7700	7700	7700
	Sub-category 16.3	7800	7800	7800	0	0%	7800	7800	7800
	Sub-category 16.4	7900	7900	7900	0	0%	7900	7900	7900
	Sub-category 16.5	8000	8000	8000	0	0%	8000	8000	8000
Category 17	Sub-category 17.1	8100	8100	8100	0	0%	8100	8100	8100
	Sub-category 17.2	8200	8200	8200	0	0%	8200	8200	8200
	Sub-category 17.3	8300	8300	8300	0	0%	8300	8300	8300
	Sub-category 17.4	8400	8400	8400	0	0%	8400	8400	8400
	Sub-category 17.5	8500	8500	8500	0	0%	8500	8500	8500
Category 18	Sub-category 18.1	8600	8600	8600	0	0%	8600	8600	8600
	Sub-category 18.2	8700	8700	8700	0	0%	8700	8700	8700
	Sub-category 18.3	8800	8800	8800	0	0%	8800	8800	8800
	Sub-category 18.4	8900	8900	8900	0	0%	8900	8900	8900
	Sub-category 18.5	9000	9000	9000	0	0%	9000	9000	9000
Category 19	Sub-category 19.1	9100	9100	9100	0	0%	9100	9100	9100
	Sub-category 19.2	9200	9200	9200	0	0%	9200	9200	9200
	Sub-category 19.3	9300	9300	9300	0	0%	9300	9300	9300
	Sub-category 19.4	9400	9400	9400	0	0%	9400	9400	9400
	Sub-category 19.5	9500	9500	9500	0	0%	9500	9500	9500
Category 20	Sub-category 20.1	9600	9600	9600	0	0%	9600	9600	9600
	Sub-category 20.2	9700	9700	9700	0	0%	9700	9700	9700
	Sub-category 20.3	9800	9800	9800	0	0%	9800	9800	9800
	Sub-category 20.4	9900	9900	9900	0	0%	9900	9900	9900
	Sub-category 20.5	10000	10000	10000	0	0%	10000	10000	10000

Commercial aircraft fuel consumption rates¹⁰⁵

Commercial Aircraft Fuel Consumption Rates - US gallons

Manufacturer	Aircraft Type	Block Fuel (US gallons)							Time (minutes)							Fuel Consumption per Block Hour (US Gallons)						
Distance in nautical miles >>		200	500	1,000	2,000	3,000	4,000	6,000	200	500	1,000	2,000	3,000	4,000	6,000	200	500	1,000	2,000	3,000	4,000	6,000
Airbus	A319-100	566	1,040	1,861					54	94	160					629	664	698				
	A320-200ceo	613	1,123	2,014					54	94	160					681	717	755				
	A321-200	765	1,401	2,514					54	94	160					850	894	943				
Boeing	B767-300ER			3,497	6,545	9,550	12,556			184	301	419	536				1,140	1,305	1,369	1,405		
	B777-200ER			4,683	8,727	12,773	16,818			152	277	401	525				1,849	1,890	1,911	1,922		
	B777-300ER			5,167	9,883		20,170			152	277		525				2,039	2,141		2,305		

Notes:

- (1) A block hour is the elapsed time from when an aircraft departs from its departure airport gate to when it arrives at its arrival airport gate. Block hours include a flight's ground taxiing time plus its airborne time.
(2) Fuel consumption rates based on Airfinance Journal and Boeing data are typical. Actual fuel consumption rates may vary.

¹⁰⁵ Sources: (1) All consumption rates from Airfinance Journal. See for example <http://www.airfinancejournal.com/Article/3374552/Aircraft-Profile-767-300ER.html>. All aircraft types from Airfinance Journal listed in Appendix G. (2) Conversion from kilograms to US gallons from: <http://redstarcanada.com/index.php/oil-industry-conversions>.

Commercial aircraft fuel consumption rates—adjustments for specific BA routes¹⁰⁶

Aircraft
Type Economical
Cruising Speed
(NM/Hour)

A319 454
A320 454
A321 447
B763 460
B772 482
B773 482

Using the above speeds and fuel consumption rates from Airfinance Journal, I applied a differential in fuel gallons per block hour to account for specific flight distances used in my file (and accompanying charts), "BA YQ Charge recovery versus fuel cost_2011 examples_Reply.xls".

Destination from LHR	Aircraft Type	Nautical Miles ("NM")	Closest Airfinance Proxy		Route NM vs. Airfinance proxy NM	Block hour differential at above speeds	Fuel gallons differential	Fuel gallons differential at 3.50%	Fuel gallons per block hour used on route
			NM	Gallons per block hour					
MAN	A320	136	200	681	-64	-0.14	-96	-3	677
BRU	A320	196	200	681	-4	-0.01	-6	0	681
DXB	B773	3,076	4,000	2,305	-924	-1.92	-4,419	-155	2,150
CDG	A321	195	200	850	-5	-0.01	-10	0	850
GLA	A321	310	200	850	110	0.25	209	7	857
AMS	A319	208	200	629	8	0.02	11	0	630
JED	B763	2,654	2,000	1,305	654	1.42	1,855	65	1,369
LUX	A320	288	200	681	88	0.19	132	5	685
ABZ	A320	362	200	681	162	0.36	243	9	689
ACC	B763	2,842	3,000	1,369	-158	-0.34	-469	-16	1,353
ACC	B772	2,842	3,000	1,911	-158	-0.33	-625	-22	1,889
DUS	A320	281	200	681	81	0.18	121	4	685
KWI	B772	2,616	3,000	1,911	-384	-0.80	-1,523	-53	1,858
YUL	B763	2,922	3,000	1,369	-78	-0.17	-232	-8	1,361

¹⁰⁶ Sources: (1) All nautical mile ("NM") per hour speeds from <http://www.airliners.net/aircraft-data/>. (2) I based one-way flight distance in nautical miles on the great circle routing (see: <http://www.flightmanager.com/content/TimeDistanceForm.aspx>) plus a differential of 3.5% to account for air traffic control/flight plan vectoring. (3) Fuel gallons differential per: Morris, Kevin M. [then Manager Environment, British Airways], *Weight Management*, Aircraft Panel at Transport Canada, Ottawa, Canada, November 5-6, 2002. Longer flight distances require extra fuel, which translates into extra weight which impacts fuel consumption rates. I took the mid-point of Mr. Morris' "rule of thumb" of 3% to 4%, which he lists on slide 4.

APPENDIX B – ADDITIONAL SOURCES

In preparing this Reply report I used my experience and professional judgment along with a variety of additional public and private sources not used in my initial report.

In particular, I relied upon

- Corrected Industry Expert Report of Daniel M. Kasper, June 25, 2015
- Expert Report of Jonathan I. Arnold, Ph.D
- Klophaus, Richard, “Airline Fuel Surcharges: Theory and Practice” p. 6.
- British Airways changes to its global YQ Charge based on the following Bates stamped documents (with only the starting page referenced): BA00093370, BA00093372, BA00075647, BA00103555, BA00079510, and BA00136608.
- IATA documents from several years including “IATA Financial Forecasts”, “IATA Economic Forecasts”, “IATA Industry Fact Sheets”, and “IATA Monthly Traffic Analysis” (see www.iata.org).
- Airline Data Project (Global Airline Industry Program), Massachusetts Institute of Technology, <http://web.mit.edu/airlinedata/www/Traffic&Capacity.html>.
- Pearce, Brian, “Profitability and the Air Transport Value Chain”, International Air Transport Association, June 2013. See <https://www.iata.org/whatwedo/Documents/economics/profitability-and-the-air-transport-value%20chain.pdf>.
- Başer, Onur; Privatization of British Airways, Before and After 1987; <http://www.baserler.com/onur/isletme/Privatization%20of%20British%20Airways-Before%20and%20After.htm>.
- Richards, David B., “Did Passenger Fare Savings Occur After Airline Deregulation?” Transportation Research Forum, Spring 2007, pp. 73-93, see <http://journals.oregondigital.org/trforum/article/view/986/881>.
- <http://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG/countries/1W?display=graph>

- http://www.census.gov/population/international/data/worldpop/table_population.php
- <http://www.investopedia.com/terms/r/returnoninvestmentcapital.asp>.
- <http://www.whatsthecost.com/historic.cpi.aspx>
- <http://business.financialpost.com/news/transportation/airlines-go-a-la-carte-why-travellers-should-get-used-to-baggage-fees-and-more-unbundling>)
- <http://www.usatoday.com/story/travel/flights/2013/09/13/dont-fall-for-airlines-unbundling-ploy/2811265/>
- http://articles.chicagotribune.com/2013-07-14/business/ct-biz-0714-fees-20130714_1_frontier-airlines-airline-prices-new-fees
- <http://www.cnn.com/2012/07/10/travel/airline-charges/index.html>
- <http://centreforaviation.com/profiles/hot-issues/ancillary-revenues>
- http://www.thestar.com/news/gta/2013/09/02/ba_dreamliner_completes_in_augural_londontoronto_flight.html B
- <http://www.bbc.com/news/business-23177384B>
- <http://news.bbc.co.uk/2/hi/business/1990691.stm>
- http://www.tripadvisor.ca/ShowTopic-g1-i10702-k4859177-More_from_BA_on_Avios_other_changes-Air_Travel.html
- <http://www.airfinancejournal.com/Article/3373425/Search/Results/Aircraft-Profile-777-200ER.html?Keywords=Aircraft+profile&PageMove=1>
- <http://status.oag.com/historical/>
- <http://airlineroute.net/2011/10/24/ba-w11-update5/>
- <http://airlineroute.net/category/british-airways/page/18/>
- <http://www.modernghana.com/news/21273/1/british-airways-starts-daily-accra-london-service-.html>
- <http://centreforaviation.com/analysis/dot-grants-oneworld-antitrust-immunity-31482>

- British Airways Annual Reports,
<http://www.iagshares.com/phoenix.zhtml?c=240949&p=irol-reportsannual>